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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 MARY E. BARBOUR AS TRUSTEE
14 FOR THE MARY E. BARBOUR
15 FAMILY TRUST ONE, Derivatively
On Behalf of BROCADE
16 COMMUNICATIONS SYSTEMS,
INC.,

17 Plaintiff,

18 vs.

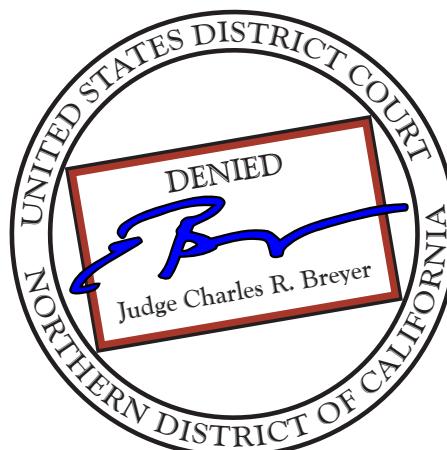
19 GREGORY L. REYES, DAVID L.
20 HOUSE, MICHAEL KLAYKO,
RICHARD DERANLEAU, KUMAR
MALAVALLI ANTONIO CANOVA,
MICHAEL J. BYRD, STEPHANIE
JENSEN, NEIL DEMPSEY, SANJAY
VASWANI, L. WILLIAM KRAUSE,
ROBERT R. WALKER, GLENN C.
JONES, MICHAEL J. ROSE, SETH D.
NEIMAN, NICHOLAS G. MOORE,
CHRISTOPHER B. PAISLEY,
WILLIAM K. O'BRIEN, LARRY
SONSINI, MARK LESLIE, TYLER
WALL, RENATO A. DIPENTIMA,
JOHN W. GERDELMAN, KPMG,
LLP, WILSON SONSINI GOODRICH
& ROSATI, P.C. AND DOES 1-25,
inclusive,

21 Defendants,

22 Case No. C 08-02029 CRB

23 PLAINTIFF MARY E.
24 BARBOUR'S ~~PROPOSED~~
ORDER SETTING SCHEDULE
FOR SPECIAL LITIGATION
COMMITTEE

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1 and

2 BROCADE COMMUNICATIONS
3 SYSTEMS, INC., a Delaware
corporation,

4 Nominal Defendant.

5 WHEREAS, on June 12, 2008 the Court held a Case Management
6 Conference in the above-captioned matter;

7 WHEREAS, the Court heard argument from counsel for Plaintiff and counsel
8 for Brocade's Special Litigation Committee as to how the action should proceed
9 over the next few months;

10 WHEREAS, counsel for the SLC advised the Court that the SLC has reached
11 a conclusion to pursue various claims against 11 prospective defendants relating to
12 the backdating of stock options at Brocade;

13 WHEREAS, counsel for the SLC advised the Court that letters would be
14 mailed to the 11 defendants on June 13, 2008 advising the defendants that the SLC
15 had authorized claims to be pursued against such individuals, identifying the
16 claims, and providing the defendants until June 27, 2008 to provide a response, if
17 any, to the SLC;

18 WHEREAS, the SLC will finalize its Resolution and report by July 11, 2008,
19 after receiving responses (if any) from the 11 defendants;

20 WHEREAS, the SLC has indicated its intent to meet with Plaintiff's counsel
21 to discuss the prosecution of the claims and Plaintiff's counsel's role in the
22 prosecution of such claims, should the parties be able to reach an agreement;

23 WHEREAS, the Court has been informed that, on June 13, 2008, the SLC's
24 counsel sent letters to the prospective defendants advising them that the SLC has
25 decided to assert claims against them on behalf of Brocade and that the prospective
26 defendants could make any written submissions by June 27, 2008;

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1 THEREFORE, IT IS ORDERED AS FOLLOWS:

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3 1. The Special Litigation Committee (“SLC”) shall finalize its conclusions,

4 Resolution, and report by July 11, 2008. A copy of the Resolution and

report shall be provided to the Court and Plaintiff’s counsel the same day.

5 2. Plaintiff may file any motion she wishes, including any motions relating

6 to advancement, indemnification, or repayment of legal fees by the

7 individual defendants, but no hearing on such motions shall occur prior to

8 mid-August 2008. The parties shall work cooperatively together to

9 schedule a mutually convenient briefing schedule and hearing date.

10 3. Discovery is stayed until further notice.

11 4. A further Status Conference is set for July 18, 2008. At the conference, if

12 Plaintiff’s counsel and counsel for the SLC have not reached a mutually

13 agreeable resolution regarding prosecution of claims, and if Plaintiff

14 desires to challenge the independence, good faith, or conclusions reached

15 by the SLC, the Court will entertain argument from counsel about

16 scheduling matters and discovery pertaining to any such challenge.

17 IT IS SO ORDERED.

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19 Dated: June 30, 2008

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